

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **October 14, 2003**

AGENDA ITEM NO.: 17

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Obstructing the free passage of pedestrian and vehicular traffic**

RECOMMENDATION: Adoption of the attached ordinance amending Section 27-1.1 of the City Code making it an offense to obstruct the free passage of pedestrian and vehicular traffic on the public rights-of-way and other public places.

SUMMARY: Section 27-1.1 of the City Code prohibits loitering in a manner that obstructs the free passage of pedestrian and vehicular traffic on the public rights-of-way and other public places. This ordinance was last revised by the City in 1992 and needs to be amended to reflect recent decisions by the federal courts that recognize loitering as a constitutionally protected right. Over the years the federal courts have struck down a number of loitering ordinances on the grounds that they were too vague and constituted an unreasonable restraint upon personal liberties, such as the freedom of association. While an ordinance that makes simple loitering an offense would not withstand a challenge it is possible to adopt an ordinance that prohibits loitering plus some other type of inappropriate behavior (e.g. loitering in such a manner that you unreasonably obstruct the normal passage of pedestrians or vehicles, etc). With the help of the Commonwealth Attorneys Office Section 27-1.1 has been revised to try and comply with the decisions of the federal courts. The revisions include adding a definition section to more clearly define public places and to give a better definition of prohibited conduct.

PRIOR ACTION(S): The section of the City Code prohibiting the obstruction of the free passage of pedestrian and vehicular traffic on the public rights-of-way and other public places was last amended by City Council on January 14, 1992.

FISCAL IMPACT: None

CONTACT(S): Walter C. Erwin, 847-1310 Ext. 235

ATTACHMENT(S): An ordinance amending Section 27-1.1 of the City Code

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTION 27-1.1 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTION RELATING TO OBSTRUCTING THE FREE PASSAGE OF OTHERS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Section 27.1-1.1 of the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted as follows:

Sec. 27-1.1. ~~Loitering~~ Obstructing free passage.

Pursuant to the authority granted to the city by the Code of Virginia and its general police powers, the city does hereby adopt the following section for the purpose of ensuring the free passage of pedestrians and vehicles on the public rights-of-way, to ensure free access to public places and to prevent activities that threaten the public safety or threaten a breach of the peace.

(a) Definitions. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) Loiter shall mean to stand around or remain, or to park or remain parked in a motor vehicle at a public place or any other place open to the public and to engage in any conduct prohibited under this law. Loiter also means to collect, gather, congregate, or be a member of a group or a crowd of people, who are gathered together in any public place or any other place open to the public and to engage in any conduct prohibited under this law.

(2) Public place shall mean any public street, road, or highway, alley, land, sidewalk, crosswalk, or other public way, or any public resort, place of amusement, park, playground, public building or grounds appurtenant thereto, school buildings or school grounds, or public parking lot or any other publicly owned property.

(3) Place open to the public shall mean any place open to the public or any place to which the public is invited or may reasonably expect to be invited, and in, on, or around any privately owned place of business, private parking lot, or private institution, including shopping centers, malls, places of worship, cemeteries, or any place of amusement and entertainment whether or not a charge of admission or entry thereto is made. It includes the elevator, lobby, halls, corridors and areas open to the public of any store, office, or apartment building.

(b) Prohibited conduct. No person shall loiter on the public sidewalks, streets, public rights-of-way or on privately owned property that is open to the public in such a manner as to create any of the following conditions:

(1 a) No person shall loiter, stand, sit or lie in or upon, or otherwise remain on or collect, gather, congregate or be a member of a group of a crowd of people who are gathered together in or upon any public or quasi-public sidewalk, street, curb, crosswalk, walkway area, mall or any portion of privately owned property that is open to the public or utilized for public use, so as to unreasonably hinder or obstruct the free normal flow or passage of pedestrians or vehicles thereon.

(2 b) No person shall block or obstruct, or prevent the free access to the entrance to any building open to the public.

(3 e) No person shall obstruct, molest or interfere or attempt to obstruct, molest or interfere with any person lawfully on or in a public right-of-way, street or highway, in a manner that would cause a reasonable person or pedestrian on a public right-of-way, street or highway to fear for his or her safety.

~~(4 d)~~ No person shall engage in any conduct ~~on or in a public right-of-way~~ having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed when such conduct occurs on or in a public right-of-way or on any privately owned property open to the public or utilized for public use.

~~(e) No person shall engage in any conduct on or in a public right-of-way having a direct tendency to cause a disturbance to the reasonable comfort and repose of any other person lawfully on or in a public right-of-way, street or highway.~~

~~(f) No person shall engage in any conduct on or in a public right-of-way having a direct tendency to cause a disturbance to the comfort and repose of reasonable persons living next to such public right-of-way.~~

~~(g) No person on or in any public right-of-way shall engage in yelling, shouting, hooting, whistling or singing in such a manner or with such volume as disturb or annoy the quite, comfort or repose of reasonable persons.~~

(5 h) In order to promote the safe and orderly flow of traffic on the public streets and highways, no person shall stop a motor vehicle in such manner as to impede or render dangerous the use of the streets or highways by others and no person shall loiter on or in the public streets or highways for the purpose of engaging the operator of any motor vehicle or any passenger in a motor vehicle in conversation or any other activity while such motor vehicle is stopped on the main-traveled portion of a street or highway.

(c) Nothing herein shall be construed to prohibit a lawful assembly.

(d) Any person violating any of the provisions of this section shall be guilty of a class 1 misdemeanor

2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified:

Clerk of Council

165L